



ARIZONA BOARD OF APPRAISAL

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ARIZONA BOARD OF APPRAISAL

MINUTES REGULAR BOARD MEETING Friday, February 24, 2012 8:30 AM

Call to Order and Roll Call

Regular Board meeting called to order by Les Abrams, Chairperson at 8:32 a.m.

Board members Present at Roll Call:

Les Abrams
Debbie Rudd
Mike Trueba
James Heaslet
Myra Jefferson
~~Kevin Yeanoplos~~
Joe Stroud
~~Mike Petrus~~
Frank Ugenti

Staff Attendance:

Jeanne Galvin - Assistant Attorney General
Rebecca Loar - Regulatory Compliance Officer
Jessica Sapio - Licensing and Education Administrator

Pledge Allegiance to the Flag

Calls to the Public

Joanna Conde appeared and represented herself and thanked Frank Ugenti and Debbie Rudd for their participation at the recent Legislative hearings re: House Bill 2778 in the Legislature. Mrs. Conde discussed her concern with the perception of the Board's bias with Debbie Rudd's and James Heaslet's affiliation with the Phoenix Chapter of the Appraisal Institute, an appraisal organization. It is Mrs. Conde's opinion that respondent's Martin A. Riley and Ronald Zimmerman were given a lighter board discipline due to the fact they are both in the process of obtaining their SRA designation from the Appraisal Institute. Mrs. Conde also mentioned that, based upon her analysis, since October 2010, 75% of the motions have been made by Debbie Rudd and James Heaslet, and that includes the three months in which James Heaslet or Debbie Rudd were not present. There is concern with James Heaslet's and Debbie Rudd's affiliation with the Appraisal Institute and a large percent of the Board's motions were made from either of them. It was suggested by Mrs. Conde the Board member's with appraisal group affiliations be cautious when making motions against appraisers who belong to other appraisal organizations to reduce the appearance of bias.

Review and Action concerning 3121 Cora L. Shurtz

Respondent appeared. Debbie Rudd offered Respondent an apology and mentioned that she agreed with the Respondent's counteroffer. Debbie Rudd stated she found some errors in the investigative report. Debbie Rudd made the motion to accept the Respondent's counteroffer and offer a Nondisciplinary Letter of Remedial Action Level 1 citing the USPAP violations in the counteroffer. Mike Trueba seconded the motion. The Board voted unanimously in favor of the motion.

Review and Action concerning 3337 Michele R. Ringwald

Respondent appeared. Debbie Rudd described the location of the subject property and summarized the complaint. There was discussion concerning the use of short sales. Frank Ugenti made the motion that the Board find no violations and dismissed the complaint. James Heaslet seconded the motion. The Board voted unanimously in favor of the motion.

Review and Action concerning 3368 Ardeth L. Fair

Respondent appeared. There was discussion on how Respondent does time adjustments in relation to retroactive research for review appraisals. Mike Trueba made the motion that the Board find a Level 1 violation, citing USPAP violations 1-4a and voted to offer Respondent a Nondisciplinary Letter of Concern. Myra Jefferson seconded the motion. The Board voted unanimously in favor of the motion.

Review and Action concerning 3357 James D. Osgood

Respondent appeared. Debbie Rudd described the location of the subject property. James Heaslet mentioned that he found a lot of sales in the neighborhood. There was discussion as to why Respondent didn't choose more sales in his research. Respondent described the neighborhood and mentioned the sales available were smaller in size so he chose not to use them. Debbie Rudd asked Respondent about his practice and if he networks with other appraisers. Respondent mentioned that he works out of his home but networks with other appraisers. Debbie Rudd made the motion that the Board find a Level 3 violation, citing USPAP violations 1-1a, 1-4a, 2-1a, and voted to offer Respondent a Consent Agreement and Order of Probation for a minimum of 6 months with a minimum of 12 reports without mentorship but with disciplinary education. Myra Jefferson seconded the motion. The Board voted in favor of the motion with James Heaslet voting no.

Review and Action concerning 3277 Anthony L. Colica

Respondent appeared. Frank Ugenti made the motion for the Board to accept the investigative report. Mike Trueba seconded the motion. The Board voted unanimously in favor of the motion. Debbie Rudd made the motion to invite Respondent to an informal hearing to give him time to review the investigative report. Myra Jefferson seconded the motion. The Board voted unanimously in favor of the motion.

Review and Action concerning 3367 Jack M. Phillips

Respondent appeared. Debbie Rudd described the location of the subject property. There was discussion on the Respondent's reasoning and methodology for his comparable selection and cost approach and years of experience. Debbie Rudd made the motion that the Board find a Level 2 violation, citing USPAP violations 1-1a, 1-4a, 1-4c and offer Respondent a Nondisciplinary Remedial Action Letter requiring education.

James Heaslet seconded the motion. The Board voted unanimously in favor of the motion.

Review and Action concerning 2908 Kenneth J. Lemoine

Respondent did not appear. Myra Jefferson made a motion to close the complaint without prejudice to be reopened in the event Respondent reapplies for licensure and to rescind the referral to the Office of Administrative Hearings (OAH). James Heaslet seconded the motion. The Board voted unanimously in favor of the motion.

Review and Action concerning 2806/2807 Eric S. Gow

Respondent did not appear. James Heaslet made the motion to terminate Respondent's probation and mentorship. Joe Stroud seconded the motion. The Board voted unanimously in favor of the motion.

Review and Action concerning 3353 Bryan J. Caffrey

Respondent did not appear. James Heaslet made the motion that the Board find no violations and dismiss the complaint. Mike Trueba seconded the motion. The Board voted unanimously in favor of the motion.

Review and Action concerning 3363 Larry Abbot Jr.

Respondent did not appear. Debbie Rudd summarized the complaint. The Board mentioned that the complainant submitted additional comps but they were not sales. There was discussion about the Respondent's comparable selection and time adjustments. James Heaslet made the motion that the Board invite Respondent to an informal hearing. Mike Trueba seconded the motion. The Board voted unanimously in favor of the motion.

Informal Hearing concerning 3153 Robin E. Pinkus

Respondent appeared and was sworn in. Respondent mentioned that she did not receive her notice and investigative report that she only knew about this informal hearing was because she agreed to waive her required 35-day notice at the February 10, 2012 meeting. James Heaslet made the motion to continue this informal hearing after Respondent has been given a copy of the investigative report and time to review and prepare for an informal hearing. Myra Jefferson seconded the motion. Rebecca Loar, Regulatory Compliance Officer offered to prepare a copy of the investigative report and to table this matter until the afternoon as long as Respondent is in agreement. Respondent agreed that would be reasonable. Debbie Rudd provided a copy of the investigative report to the Respondent and the Respondent informed the Board and board staff that her address has changed and she will notify the Board staff. James Heaslet rescinded his first motion and Myra Jefferson rescinded her second to the motion. James Heaslet made the motion to table this matter until 1:30 p.m. to give Respondent time to review and prepare for the informal hearing. Myra Jefferson seconded the motion. The Board voted unanimously in favor of the motion. Jeanne Galvin, Assistant Attorney General informed Respondent that after she has reviewed the investigative report she is have every right to request the required 35-days to prepare and is under no obligation to participate in this informal hearing today. After the Board recessed for lunch, Respondent came back and informed the Board that after reviewing the investigative report she requested the required 35-days notice be given and that the informal hearing be held at a later date.

Informal Hearing concerning 2985/2989/3283 Julie D. Friess

Respondent appeared and was sworn in and gave an opening statement. Respondent mentioned that the Board was going to dismiss Complaint 3283 but the Board held the complaint until the investigative reports came back from 2985 and 2989 to see if similar errors were made. Respondent mentioned that she felt Complaint 3283 had no violations and should be dismissed. Complaint 2989 on Ricky Lane, Respondent informed the Board that appraiser Mark Glade filed this complaint. Respondent reviewed Mr. Glade's appraisal report then he filed a complaint in retaliation for the appraisal she reviewed. Respondent stated that Michael Marquess was on the Board at this time and is a friend of Mark Glade. Respondent mentioned that Complaint 2989 was part of an FBI investigation so the Board voted it to investigation as well. Respondent stated that there was nothing wrong with both Complaints 2985 and 2989 that the problem is that the Board doesn't have any investigators who are familiar with the Sedona area and there are egregious errors in both investigative reports. Respondent informed the Board that she has attended many AARO (Association of Appraiser Regulatory Officials) meetings and shared the investigative reports for Complaints 2985 and 2989 with Bob Clark, the Executive Director of the Office of Real Estate Appraisers in California and Bob Keith, Office Administration Administrator of the Oregon Appraiser Certification and Licensing Board and it is the Board's responsibility to protect the public. Jeanne Galvin, Assistant Attorney General informed the Board that investigative reports are confidential until a complaint has been adjudicated and closed. There was some discussion on what disclosure was communicated to the Respondent informing them that the investigative report is confidential. Jeanne Galvin mentioned that under the statutes that the appraisers are obligated to know clearly state that matters and documents with and investigation are confidential until the investigation is completed. The Respondent informed the Board that the both Bill Clark and Bob Keith are friends of hers and the information was shared in the form of friendship. Respondent informed the Board that she had prepared a letter responding to every error she found in the investigative reports for Complaints 2985 and 2989 dated November 14, 2011. The Board and staff informed Respondent that the replies dated November 14, 2011 were not received. Respondent insisted that she sent it via email between December and January to Dan Pietropaulo, Executive Director, Rebecca Loar, Regulatory Compliance Officer, and Jessica Sapio, Licensing and Education Administrator. Respondent demanded that these matters be resolved today, and there should be no reason why the Board has not received and reviewed her responses to both investigative reports that clearly list every violation she found. Respondent mentioned that these complaints have been going on for 3 years and it is the Board's responsibility to resolve complaints within 12 months and that it is not acceptable and these complaints are prohibiting her from moving forward in her profession. Myra Jefferson made the motion to go into Executive Session to seek legal advice. Frank Ugenti seconded the motion. The Board voted unanimously in favor of the motion.

The Board returned from Executive Session. Les Abrams, gave an apology to Respondent for the length of time it has taken to resolve these matters, it should not have taken 3 years. He explained that there have been some mitigating circumstances, as the Board was without an executive director for some time, and that there were some requests to continue the informal hearings by the Respondent. It is the Board's desire to continue to move forward. Both the Board and Respondent agreed to table this matter until 1:00 p.m. to allow the Board time to review Respondent's replies and for Rebecca Loar to research receipt of the emails allegedly sent by Respondent between December 2011 and January 2012 regarding these matters. Respondent submitted a copy of replies for Complaints 2985 and 2989 for Board staff to copy and distribute.

Rebecca Loar, Regulatory Compliance Officer informed the Board that during the lunch break she went back to the office and researched all emails sent from Julie Friess to the Executive Director Dan Pietropaulo and herself. Rebecca stated that even though she and Mr. Pietropaulo received several email communications from Respondent, there were no emails that included the replies Respondent alleges she sent. Rebecca Loar further informed the Board that in addition to checking the emails and digital files, she also checked the Board files. Respondent apologized to the Board that they did not receive the replies to both Complaints 2985 and 2989 but all this information is in the Respondent's work file and has been provided to the Board. Respondent stated again that she needed these matters resolved today. There was discussion stating that even if Board staff received Respondent's replies to Complaints 2985 and 2989 back in December or January, it would not have allotted enough time for the Board's investigator to respond and present the additional information to the Board for this meeting. The Respondent was reminded several times that she had the right to go to a Formal hearing to have the opportunity to question the investigator. Respondent stated several times that she needed these matters resolved today. Debbie Rudd made the motion that the Board combine all three Complaints 2985/2985/3282 and find a Level 2 violation, citing all violations found in the investigator's reports for Complaint 2985 and 2989 and USPAP violations found in Complaint 3282 and issue a Nondisciplinary Remedial Action Letter and require Respondent to submit the most recent 1004 and 2000 or 2006 review appraisal within the last 90-days to be submitted within 30-days of issuing the Nondisciplinary Remedial Action Letter. Mike Trueba seconded the motion. The Board voted unanimously in favor of the motion.

Review and Action concerning 3068 David C. Lennhoff and 3069 Harry A. Horstman, II

Frank Ugenti recused himself from this matter. Neither of the Respondents appeared. Les Abrams summarized the subject property. Les Abrams mentioned that there was no jurisdiction exception made which is a 2006-2007-2008 USPAP violation. Debbie Rudd made the motion that the Board find USPAP violation relating to Jurisdiction Exception and offer Respondents a Nondisciplinary Letter of Concern. James Heaslet seconded the motion. The Board voted in favor of the motion.

Review and Action concerning 3361 Thomas M. Peevler

Respondent appeared. Debbie Rudd described the location of the subject property. James Heaslet made the motion that the Board find no violations and dismiss the complaint. Mike Trueba seconded the motion. The Board voted unanimously in favor of the motion.

Review and Action concerning 3365 Thomas A. Reeb

Respondent did not appear. Debbie Rudd made the motion that the Board find no violations and dismiss the complaint. Mike Trueba seconded the motion. The Board voted unanimously in favor of the motion.

Review and Action concerning 3364 Cheryl A. Zormeier

Frank Ugenti recused himself from this matter. Respondent did not appear. Debbie Rudd made the motion to invite Respondent to an informal hearing. James Heaslet seconded the motion. The Board voted in favor of the motion.

12-Month File Review

Jeanne Galvin, Assistant Attorney General gave an update on the complaints that have been pending more than 12- months. She also informed the Board that the 4 complaints under "With AG" status are from the last Board meeting February 10, 2012, which was 2 weeks ago, and have not been drafted yet. The Board asked Rebecca Loar, Regulatory Compliance officer to give an explanation for 2984 was on hold. And the expiration date for 3013 James A. Woods. Josh Allison Complaint 3169 will go before the Board on March 9, 2012. The Board has instructed staff to list the expected date for the pending informal hearings. Rebecca Loar, Regulatory Compliance Officer distributed a report of all pending complaints to the Board at the Board's request at the last Board meeting, February 10, 2012. The Board stated their appreciation for the compliance report and requested to receive this report each board meeting to further assist the Board. Rebecca Loar informed the Board that the Executive Director, Dan Pietropaulo will be attend the Board meeting and present his report after lunch.

The Board recessed for lunch and reconvened at 1:00 p.m. The Executive Director, Dan Pietropaulo arrived at the Board meeting.

Rebecca Loar, Regulatory Compliance Officer provided an update to the information that was requested by the Board before the Board recessed for lunch. She informed that Complaint 2984 has been placed on hold until Complaint 3113 is back from investigation and has not been set yet. The Board requested that Complaint 3113 be sent to investigator as soon as possible. Mrs. Loar informed the Board that James A. Wood's renewed his license and doesn't expire until 2/28/14 and he has been scheduled for an informal hearing for the next Board meeting on March 9, 2012.

Call to the Public

Bill Barnes, and Arizona appraiser, asked the Board who investigates the Board's investigators. Cora Shurtz and Julie Friess brought up problems with the investigator's reports. If the Board finds a problem with an investigation, it should be sent to the Attorney General's office. Mr. Barnes asked if there is some favoritism occurring. Mr. Barnes recommend the Board suspend Mr. Morris from conducting investigations for the Board and teaching until this matter is resolved.

Executive Director's Report

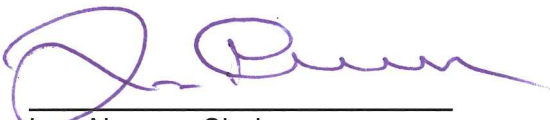
The Executive Director, Dan Pietropaulo was present and reported that the request for an extension for the Appraisal Subcommittee Audit scheduled in April has been denied. As of March 19, 2012, Department of Public Safety (DPS) will be reducing its background fee from \$24 to \$22, which will be passed on to the consumers. The database merge project is moving along. Next week Dan Pietropaulo will meet with staff and end users who will fine-tune the scope of work with the project manager. The Board now owns the domain name **azboa.gov**. The process is moving now to utilize this domain name starting first with the Board's email system, then the website. Last year the Board was able to replace the antiquated cassette recording system, now the Board has replaced the P/A sound system. The new P/A system is small enough to transport to any location. Dan Pietropaulo also mentioned the structural changes that were made for today's meeting to help accommodate the Board and make it more useful. The investigations are getting caught up. Currently there are 9 investigations in progress and only 4 awaiting assignment, all which are current. Complaints over 12-months was already reported by Jeanne Galvin, Assistant Attorney General, and Rebecca Loar, Regulatory Compliance Officer. Dan Pietropaulo informed the Board that there are 14

complaints pending other, which means the Board has already offered the respondents the Board's offer and just awaiting respondent's signature. There are 2 on hold, 1 with investigator, 6 involved in today's proceedings, 3 pending formal hearing, 6 pending informal hearing, 4 With AG, which was just recently assigned by the Board at the last meeting, February 10, 2012, and 1 back from investigation. Mr. Pietropaulo stated that the Board and staff have made great progress and will have the 12-month files cleaned up soon.

Dates, Times, and Purposes

Les Abrams informed the Board that it is unanimous that the Board has no desire to continue with 2 board meetings per month. Rebecca Loar informed the Board that Application File Review Committee will meet on Thursday, March 8, 2012 at 3:00 p.m. and the Education and Testing Committee will meet on Thursday, March 8, 2012 at 3:30 p.m. at the Board office 1400 W. Washington, Suite 360 Conference Room. The next Board meeting will be held at the Arizona Department of Administrative Building located at 100 N. 15th. Avenue, Phoenix, AZ 85007, Suite 300 A, B, and C on March 9, 2012 at 8:30 a.m. Rebecca Loar will reschedule the April Board meeting to accommodate the Appraisal Subcommittee Audit on April 18, 19, and 20. There was discussion and concern that the April Board meeting on the 20th conflicts with the AARO Conference where Debbie Rudd, Mike Petrus, and Dan Pietropaulo will be attending. Frank Ugenti stated that he would not be available to attend a Board meeting on April 20th. Dan Pietropaulo stated he would communicate the conflicts with the Appraisal Subcommittee and let the Board know if they can reschedule the Board audit. Rebecca Loar mentioned the need to schedule a board meeting in conjunction with organizing and scheduling the pending informal hearings.

The meeting was adjourned.



Les Abrams, Chairperson